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SUBJECT: ADIDAS OPEN LETTER SEEKS RESOLUTION OF LABOR CASE

11. (SBU) Summary: Hermosa Manufacturing, a Salvadoran owned and operated garment manufacturer, ceased operations in May 2005. The closure resulted in more than 250 unemployed workers and liabilities of USD 825,000 in outstanding wages, severance payments, and unpaid benefits. The GOES has been unwilling or unable to enforce laws which require the factory owner to pay workers, claims. On October 29 Adidas Group, frustrated by the lack of progress in the dispute, published an open letter in the two leading daily newspapers asking the Salvadoran government to take immediate steps to settle the case. The Minister of Labor was upset at the negative publicity. It remains to be seen if the letter will generate the political will necessary to settle the dispute. End Summary.

ADIDAS GROUP PUSHES GOES FOR RESOLUTION

12. (SBU) The Hermosa Company produced garments for Adidas Group from 2000 to mid-2002 and then as a subcontractor to Partex Apparel Group until mid-2003. Under Salvadoran law, Adidas bears no legal liability in the dispute between the former workers and Salvador Montalvo Machado, owner of Hermosa Manufacturing. However, under the Adidas Code of Conduct, the Adidas Group has made repeated efforts to resolve this case, including participating in several meetings with high level Salvadoran officials, including the Minister of Labor and the Minister of the Economy. On April 4, 2006, Gregg Nebel, the head of social and environmental affairs for Adidas, met with the Presidential Technical Advisor, the Presidential Legal Advisor, the Minister of Labor, and the Minister of the Economy. At that meeting the GOES agreed to provide healthcare services to the workers through the ISSS (the Salvadoran Social Security System) and agreed to assist workers in finding other employment. However, several workers have since been denied healthcare services. Workers also claim that while the Ministry of Labor arranged for a job fair, they were untrained or unable to perform the positions offered. Workers reported that the jobs offered included positions as pastry chefs and security guards.

13. (SBU) On October 29, 2007, the Adidas Group published an open letter to the Salvadoran government in La Prensa Grafica and El Diario de Hoy. The letter asked the Salvadoran government to take immediate action to resolve the case, including implementing the April 2006 agreement to provide the workers with healthcare services, to fund the workers, ISSS accounts with the 145,000 USD fine collected by the government in spring 2007, and to pursue the repatriation of Hermosa assets that were disposed of before workers claims were satisfied. The letter also alleges that the GOES failed

to follow and enforce Salvadoran law and took actions that prevented the workers from finding new employment or making formal claims against Hermosa. The Minister of Labor left a message for LabOff saying that the letter was "outrageous" because it criticizes his efforts to resolve the dispute.

IN 2005, HERMOSA CLOSES AND OWES USD 825,000 TO WORKERS

¶4. (SBU) In 1992 Salvador Montalvo Machado opened Hermosa Manufacturing Co. in Apopa, north of San Salvador. The Hermosa factory produced garments, as a direct supplier or subcontractor, for numerous brands, including Adidas, Nike, Russell Athletics, and Majestic Athletics.

¶5. (SBU) In May 2005, citing a lack of raw material, Montalvo closed the factory and obtained a permit from the Ministry of Labor to suspend commercial activities. The closure resulted in the unemployment of over 250 workers. When the factory closed workers were owed USD 825,000 in back wages, severance payments, and other benefits. Banco Cuscatlan and the former Banco Salvadoreno, now HSBC Bank, reportedly held liens of approximately USD 1 million; however the factory's assets of approximately USD 2 million appeared sufficient to satisfy both workers' claims and bank liabilities. The Salvadoran constitution specifies that workers' compensation takes precedence over competing claims, liens, and other liabilities. However, neither the Ministry of Labor nor the Public Ministry, composed of the Attorneys General Office and the Solicitor's Office, enforced the constitutional provision.

¶6. (SBU) According to a 2006 report by the Independent Monitoring Group (GMIES), between 1997 and 2005 Hermosa did not regularly pay Salvadoran Social Security (ISSS) quotas that allow workers to obtain health care. Currently several former Hermosa workers suffer from serious health conditions, including cancer, but have been denied medical treatment due to the lack of ISSS payments. The GMIES report also states that Hermosa did not pay workers' pension quotas (AFP) between September 2004 and June 2005.

WHERE ARE THE ASSETS?

¶7. (SBU) Although the factory's assets were reportedly sufficient to satisfy all claims in May 2005, the current status of Hermosa assets is unknown. On October 26, LabOff met with former Hermosa workers who provided official documents that show Montalvo sold the Hermosa building to Comercializadora Santa Teresa, a new company formed the same month Hermosa closed, for USD 840,908.

¶8. (SBU) On December 8, 2006, the Third Sentencing Criminal Court sentenced Montalvo to two years of prison and ordered him to pay a fine of \$144,724, which he paid with Hermosa assets. Although the court initially prohibited Montalvo from departing the country, it revoked that decision and authorized Montalvo to travel to the United States on December 12, 2006 to attend a family wedding and conduct business on behalf of another apparel company, MB Knitting. Montalvo owns 25 percent of MB Knitting, along with his wife (35 percent) and Hermosa Company (40 percent). In a meeting with LabOff, former Hermosa workers allege that assets formerly located in the Hermosa plant have now been transferred to MB Knitting. Workers said they intend to file a criminal complaint against Montalvo for moving assets in order to avoid fulfilling his obligations to workers.

¶9. (SBU) Comment: The case of Hermosa Manufacturing highlights a number of the labor issues that we believe are common in the maquila industry. The GOES has been unwilling or unable to enforce labor laws that protect workers' claims when a factory closes. This provides strong incentive for factory owners who are behind in payments to close down and then reopen a few months later under a new name and with a

clean slate. In addition, the government fails to enforce social security payments and, in this case, should have known the owner was pocketing workers contributions. Hermosa workers were unaware that their payments had not been submitted until healthcare services were denied. The Hermosa case is unusual because a handful of workers have continued to press their claims even though the majority of workers have moved on. Some of the women have chosen to continue because they are terminally ill and have nothing to lose. Unfortunately, while the Ministry of Labor is aware of their situation, its actions could leave the impression that it is content to wait them out. While the open letter from Adidas did catch the government by surprise, it remains to be seen if the negative publicity will generate the necessary political will to address the workers claims. End Comment.
Butler